USDC SDNY

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 09/13/2023
RIGOBERTO EMMANUEL FERNANDEZ ESTEVEZ, individually and on behalf of others similarly situated,	:
Plaintiff,,	: 22-cv-7376 (LJL)
-V-	: <u>ORDER</u>
KINGS FINEST DELI INC. ET AL,	: :
Defendants.	: :
	: X

LEWIS J. LIMAN, United States District Judge:

The parties in this matter have reached a settlement in principle. The case was brought pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq*. Under Second Circuit law, any settlement—including any proposed attorney's fee award—must be scrutinized by the Court to ensure that it is fair. *See Fisher v. SD Protection Inc.*, 948 F.3d 593, 600 (2d. Cir. 2020); *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015).

Accordingly, it is hereby ORDERED that, on or before October 23, 2023, the parties must submit to the Court a joint letter explaining the basis for the proposed settlement and why it should be approved as fair and reasonable, with reference to the factors discussed in *Wolinsky v. Scholastic*, Inc., 900 F. Supp. 2d 332, 335-36 (S.D.N.Y. 2012). The letter should address any confidentiality provisions, non-disparagement provisions, or releases in the proposed settlement agreement. The letter should also address, if applicable, any attorney's fee award to plaintiff's counsel (with documentation to support the latter, if appropriate) consistent with the principles set forth in *Fisher*, 948 F.3d at 600. It is not sufficient to state the proportion of the requested attorney's fee to the overall settlement amount. Rather, the reasonableness of attorney's fees must be evaluated with reference to "adequate documentation supporting the attorneys' fees and

Case 1:22-cv-07376-LJL Document 68 Filed 09/13/23 Page 2 of 2

costs," which "should normally [include] contemporaneous time records indicating, for each

attorney, the date, the hours expended, and the nature of the work done." Id.; see Strauss v. Little

Fish Corp., 2020 WL 4041511, at \*9 (S.D.N.Y. July 17, 2020) (discussing the requirements for

adequately justifying an attorney's fee). Failure to provide the appropriate or sufficient

documentation could result in the Court rejecting the proposed fee award.

The parties are directed to appear telephonically for a settlement approval hearing on

October 30, 2023 at 4:30 p.m. Plaintiff is requested to appear at the hearing and, if necessary,

with an interpreter. The parties are directed to dial (888) 251-2909 and use the access code

2123101.

As stated on the record at the conference held on September 13, 2023, Roger B.

Greenberg's motion to withdraw as attorney is GRANTED. Dkt. No. 60.

The Clerk of Court is respectfully directed to close Dkt. No. 60. All other conferences

and deadlines are CANCELLED, including trial and pretrial deadlines.

SO ORDERED.

Dated: September 13, 2023

New York, New York

LEWIS J. LIMAN

United States District Judge

2